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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|---|-------------|------------------------|-------------------------|------------------|
| 09/786,615  | 05/24/2001  | Paul G. Jost-Brinkmann | HMN 2 0014              | 1492             |
| 7590  | 01/26/2005  |                        | EXAMINER                |                  |
| Scott A McCollister<br>Fay Sharpe Fagan Minnich & McKee<br>1100 Superior Ave<br>7th Floor<br>Cleveland, OH 44114-2518 |             |                        | O'CONNOR, CARY E        |                  |
|   |             |                        | ART UNIT                | PAPER NUMBER     |
|   |             |                        | 3732                    |                  |
|   |             |                        | DATE MAILED: 01/26/2005 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/786,615             | JOST-BRINKMANN      |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Cary E. O'Connor       | 3732                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 March 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>42901</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuo (4,790,336). Kuo shows a dental floss holder 10 comprising a grip (defined by reference numeral 20 and the adjacent half of reference numeral 12) into which can be inserted a floss supply spool 22, a fork with two prongs 14, 16 and a holding element 34 for locking the floss, and an arm (the half of 12 adjacent the fork) connecting the fork and grip. The grip is considered to be “drop shaped” and the holding element is located on the top of the arm. The grip includes a guide for the floss formed as a groove 52 within the grip. As to claim 6, note that the prongs are bent downwards with respect to the longitudinal axis of the dental floss holder, as can be seen in Figure 2. As to claim 7, note that the grip comprises a shell-shaped part 20 and a lid 23. As to claims 9 and 10, note that the grip is provided with a resiliently mounted locking element 50 (which acts as a spring element) which is a post operable by pressure for releasing the locking action. The grip has securing elements (internal ribs) to prevent loss of the locking (spring) element. As to claim 11, note the cutting element 64.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo (4,790,336). Without a showing of criticality, the specific dimensions of the floss holder are considered to have an obvious design choice, to one of ordinary skill in the art.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo (4,790,336) in view of Lee (4,214,598). The grip of Kuo does not include a post extending perpendicular to the longitudinal axis of the floss holder. Lee shows a dental floss holder comprising a grip for holding a spool of floss therein. A post 30 is located within the grip, extending perpendicular to the longitudinal axis of the floss holder which holds the spool in place and keeps it centered within the grip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the interior of the grip of Kuo with a post as taught by Lee, in order to center the spool to ensure even and smooth unwinding.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo (4,790,336) in view of Urso (5,323,796). The floss holder of Kuo does not include means for imparting high frequency oscillations to the floss. Urso shows a dental floss holder which may include ultrasonic transducers 127, 128 for imparting high frequency oscillations to the floss to provide more effective flossing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the floss

holder of Kuo with ultrasonic transducers, in view of Urso, in order to provide more effective flossing.

***Claim Objections***

Claim 5 is objected to because of the following informalities: “mmy” in line 2 appears to be an error. Appropriate correction is required.

***Specification***

The disclosure is objected to because of the following informalities: Reference numeral 9 refers to an arm (page 5, lines 19) and an indentation (page 6, line 2).

Appropriate correction is required.

***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “9” has been used to designate both the arm and an indentation (Fig. 1). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cary E. O'Connor  
Primary Examiner  
Art Unit 3732

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